

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT WINCHESTER

JOE A. HERMAN,)	
Plaintiff)	
v.)	No. 4:05-cv-102
JO ANNE B. BARNHART,)	
Commissioner of)	
Social Security,)	
Defendant)	

MEMORANDUM AND ORDER

This matter was referred to a United States magistrate judge of this district pursuant to 28 U.S.C. § 636(b) and Rule 72(b), Federal Rules of Civil Procedure, for a report and recommendation regarding disposition of plaintiff's motion for judgment on the pleadings [Court File #12] and defendant's motion for summary judgment [Court File #14]. In a report and recommendation dated April 26, 2006, the United States magistrate judge recommended that plaintiff's motion be denied and defendant's motion be granted. No timely objection to the report and recommendation has been filed.

Upon a *de novo* review of the record in this case and the magistrate judge's report and recommendation, I am in agreement with the United States magistrate judge. Specifically, there is substantial evidence in the record that there are significant numbers of jobs in the regional and national economies that plaintiff could perform, examples of which were identified and enumerated by a vocational expert. Accordingly, there is substantial evidence that plaintiff has not been disabled within the meaning of the Act at any time from April 2002 and thereafter, through at least the date of the ALJ's decision. Since the Commissioner's findings are supported by substantial evidence based on the record as a whole, they are conclusive and must be affirmed. 42 U.S.C. § 405(g).

Accordingly, the report and recommendation of the United States magistrate judge [Court File #16] is hereby ACCEPTED IN WHOLE. Plaintiff's motion for judgment on the pleadings [Court File #12] is DENIED; defendant's motion for summary judgment [Court File #14] is GRANTED; and the final decision of the defendant Secretary is AFFIRMED.

ENTER :

s/ James H. Jarvis
UNITED STATES DISTRICT JUDGE